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Form. H-37—100,000—31-3-45.

(1) Home (1947) Department.

MS SERIES.

G.O. No. 3291

Dated 21 8-47

[Despatch Abstract.]

Motor Vehicles—

Motors - Insurance against third party risks - Accidents in which Government owned vehicles are involved - Settlement of claims for compensation - Instructions regarding procedure issued.- Papers recorded.

From		To
D.D.Sathe, Esq., I.C.S.		The Secretary to Government
Secretary, Central Road		Home Department,
Traffic Board, Chepauk,		Fort St. George,
Madras.		Madras.

Letter/ No.11229/A.2/47 dated 3-6-47

Sir,

Sub:- Motor Vehicles - Vehicles owned by or on behalf of Central or Provincial Government payment of compensation - Persons involved in accidents - Instructions requested.

Under Section 94(2) of the Motor Vehicles Act, motor Vehicles owned by or on behalf of the Central or Provincial Government are exempted from taking out a policy of insurance complying with the requirements of Chapter VIII of the Motor Vehicle Act. But according to rule 12 of the Motor Vehicles (Third Party Insurance Rules 1946, these vehicles are issued certificates of insurance in Form 'C' set we out in the schedule to those rules signed by the departmental officers authorised in that behalf which will be produced when required for evidence that such vehicles are not being driven in contravention of Section 94 of the Act. Chapter VIII of the Act provides only for the insurers to take up the risk and pay compensation to persons involved in the motor vehicle accidents. There is no provision in the Act and rules regarding the payment of compensation to persons involved in the accidents arising out of Government vehicles.

2. A case of this kind, in which a girl aged 14 years was knocked down by a police lorry at Bazwada as a result one of her legs was broken, is brought to the notice of the Central Board by the District Superintendent of Police, Kistna. The Central Board requests to be informed whether any compensation is payable by Government in this case and if so whether the District Superintendent of Police can settle the question of compensation.

3. The Board also requests general instructions as to the procedure for the settlement of claims in such cases where Government vehicles are involved.

sd. . .
Secretary,

GK. /True Copy/

Home Department.

Memo No.38198B/47-1 dated 25-6-1947.

Sub: Accidents in which Government owned vehicles are involved - Payment of compensation - Procedure.
Ref:-From the C.R.T.Board No.11229/A2/47 dated 3-6-47.

The Attention of the Central Road Traffic Board is invited to the memorandum and the draft instructions of the Government of India, communicated with endorsement No.2195B/47-7, Home dated 9-6-1947 and the Board is informed that general instructions in the matter will be issued after the final suggestions of the Government of India have been received.

2. As regards the case referred to in para 2 of its letter cited, the Board is requested to obtain from the District Superintendent of Police Kistna a detailed report on the circumstances in which the accident ~~taken~~ took place, and the amount of compensation if any that may be paid in the light of the draft instructions communicated with endorsement No.2195B/47.7., dated 3-6-1947 and forward it to Government for consideration.

sd. . . .
Secretary to Government,
13-6-1947.

To the Secretary,
Central Road Traffic Board, Madras.

gk. /True Copy/

Home Department.

Memo No.38198B/47-2 dated 7-7-1947.

Sub:- Motor vehicles - Insurance against third party risks - Accidents in which Government owned vehicles are involved.- Settlement of claims for compensation - Procedure.

The Government of India have under consideration the question of laying down a uniform procedure for the settlement of claims for compensation arising out of accidents in which Government owned motor vehicles are involved. A copy of a memorandum and draft instructions prepared by them in this connection is enclosed. Pending final decision on the procedure to be followed in such cases, the District Superintendents of Police, in cases where the vehicle belongs to the Police Department, in cases occuring in the Madras city, are requested to send in consultation with the local Government Pleaders, detailed reports on claims for compensation. It should be reported how the accident occurred and what amount, if any, is payable as compensation in the light of the draft instructions of the Government of India. No compensation would generally be paid if the driver was in no way responsible for the accident.

1. the District Magistrates in other cases and the Commr of Police, Madras,

sd. . . . . .

25-7-47

To all District Superintendents of Police,
" " District Magistrates
To the Commissioner of Police, Madras.
Copy to the Inspector General of Police.
Copy to the Board of Revenue.
Copy to the Secretary, Central Road Traffic Board.
(in continuation of Memo.38189B/47-1)
Home dtd. 25-6-47.

Copy of letter from the Government of India, Transport Department No.4-TP(1)/47 dated 27th May 1947 to all Provincial Governments.

Transport Advisory Council - Tenth meeting.

I am directed to refer to this department letter No. 4-TP(1)/47 dated the 22nd May 1947, and to enclose four copies of a Memorandum on item 2 of the agenda on the subject of procedure for the settlement of claims agising out of accidents in which Government owned motor vehicles are involved.

2.I am to add that Memorandum on item 7 will be circulated shortly.

MEMORANDUM FOR THE TRANSPORT ADVISORY COUNCIL.

Item 2: Procedure for the Settlement of Claims arising out of accidents in which Government owned motor vehicles are involved.

There has been some public feeling against the provisions in sub section (2) of Section 94 of the Motor Vehicles Act, 1939, exempting Governments and approved local authorities from the necessity to take out policies of insurance against third party risks in respect of vehicles owned by them. The need for action to protect the interests of third parties who may be affected by accidents in which such vehicles are involved, was stressed in the Report of the Select Committee on the Motor Vehicles (Second Amendment) Bill, 1946, and during the debates in the Legislative Assembly while that Bill was under consideration.

2. The principle behind such exemption is that Governments and large local authorities are rich enough to carry their own insurance and will save the profit made by the insurance companies by doing so, and that they are sufficiently responsible to meet any reasonable claims made against them.

3. The legal position in regard to the liability of the Government of India in respect of death, bodily injury or damage to property caused by the use of their vehicles other than vehicles used in a commercial capacity is not free from doubt. It is understood that a Crown Proceedings Bill is under consideration in the United Kingdom to make the Government liable in tort against its subjects in the same way as a private person. The Government of India, however, have been advised that it is neither necessary nor possible to have a similar Crown Proceedings Bill in India, before June 1948 at any rate.

4. In order that all claims against Government in respect of death or bodily injury or of damage to property to third parties caused by the use of their vehicles may be promptly settled, the following suggestions have been made:-

(a) Each Department of the Central Government will deal with its own accident claims;

(b) When an accident occurs, the Department concerned will endeavour to settle out of court the compensation to be paid;

(c) If no settlement is possible, the aggrieved party may be allowed to take legal action against the driver, Government undertaking to honour the court's decree.

(d) In the event of an accident occuring in a locality too far from the Central Government Department's sphere of action, the Provincial Government will be asked to instruct their District Magistrates to conduct the negotiations with the aggrieved party and, after referring the facts to the Department of the Central Government concerned in case the quantum of compensation decided

upto. . . .

upon exceeds Rs.2000/- endeavour to reach a settlement out of Court at the amount assessed by Him, and the Central Government will agree to pay up such amount in full discharge of all claims. If a Provincial Government vehicle is involved in an accident in a Centrally Administered area, the Central Government will give reciprocal assistance.

(e) In the interest of uniformity , it is desirable that provincial Governments should also adopt similar procedure in respect of their exempted vehicles;

(f) It has already been arranged with Indian States that in the case of an accident occuring in a State in which an exempted vehicle from British India is involved or vice versa compensation will be assessed by the District Magistrate or State officer of corresponding status in the territory where the accident takes place and that the Government concerned will guarantee to pay the amount assessed. In order to preserve consistency, the Indian States will be asked to agree that where an aggrieved person declines to accept the District Magistrate's award, the driver of the vehicle should be sued and that the Government concerned will undertake to honour the Court's decree.

5. A set of draft instructions to the Civil Departments of the Government of India regarding the action to be taken in the event of any of their vehicles becoming involved in an accident is attached. Provincial Governments could adopt those instructions with suitable changes.

6. The views of the Council are sought on the above suggestions.

Draft instructions to the Civil Departments of the Government of India regarding the insurance of their vehicles and action to be taken in the event of any of these becoming involved in an accident.

No liability at law attaches to the Government of India in respect of death, bodily injury or damage to property caused by the use of their vehicles, but, in respect of any of their vehicles registered otherwise than under section 39 of the Motor Vehicles Act, 1939 they have accepted.

(a) extra legal liability to the extent of the legal liability that would have attached had they been the private owner of the vehicle, and

(b) the legal liability attaching to any person driving the vehicle whether for an official or unofficial purpose.

2. Since insurance companies insure only legal liability and none attaches to the Goernment of India, Dep-artments should not insure their vehicles. Moreover since the Government of India owns a appreciable number of civil vehicles, by carrying their own insurance they will save the profit that would have been made by the insurance companies. As the Government of India have accepted the legal liability attaching to any person driving one of their civil vehicles, it should provide that vehicles should not be driven by any official, other than the driver engaged for the ~~Department and that also there should~~ purpose, except with the express orders in writing of the head of the Department and that also there should be safeguards against any unauthorised use of vehicles. Where vehicles are allowed to be used by officers for private purposes on payment, this payment should be based on costs which include a sum equivalent to the premium that would have been paid had the vehicle been insured.

3. There has already been criticism of the provisions of the Motor Vehicles Act which exempt Government from the necessity to insure their vehicles, on the grounds that there is danger of delay and difficulty in the settlement of genuine and it is possible that the public may be afraid that they will not get a fair deal from Government in the event of any of them being involved in an accident. To meet those objections, the following procedure will be followed by the Departments of the Government of India.

(1) The Department concerned will in the first instance endeavour to reach a settlement with the aggrieved party out of court;

(2) if the accident occurs in a locality where it is inconveniont for a departmental officer to conduct an investigation, the District Magistrate of the District in which the accident takes place will assess the componsation to be paid to the aggrieved party on behalf of the department concerned and will offer it to the aggrived party in final settlement; if the aggrieved party accepts the amount so offered the Government of India will pay without further argument: provided that no sum exceeding Rs.2000 shall be so offered by any District Magistrate until he has obtained the consent of the department concerned;

(3) if it is impossible to reach a settlement out of court the aggrieved party will be permitted to take legal action in the civil court against the driver, Government undertaking to honour the court(s decree.

If an accident occurs in an Indian State the same procedure will apply.

4. It is important that departments should issue orders regarding the action to be taken when any of their vehicles is involved in an accident. The instructions set out below have been prepared for guidance in this respect:

(a) If a vehicle is involved in an accident the driver should, after making any report to the police required by section 89 of the Motor Vehicles Act, bring the full facts of the case to the notice of the officer of the Department immediately responsible for the control of the vehicle without avoidable delay.

(b) Neither the driver nor any other officer, except the prescribed senior officer mentioned in paragraph (c) below should:

(i) embark on, or incur any expenditure on, litigation;
(ii) make any offer, or promise of payment, or settlement; or
(iii) make any admission of liability;

in respect of any claim made by a third party. This should however not be regarded as debarring them from answering truthfully any reasonable questions especially questions asked by a police officer in uniform. In this connection attention is invited to the duties of owners and drivers described in section 86 to 89 inclusive of the Motor Vehicles Act.

(c)The officer to whom a report is made in accordance with (a) above should be required to report the full facts to a specified officer (referred to hereafter as "the officer concerned") who should normally be a senior officer of the Department selected for the purpose. This officer should be required to act much in the same way as an insurance company in the case of a private vehicle, that is to say, he should keep in touch with the progress of cases, deal with claimants and their legal advisers, instruct the crown counsel where cases are taken to Court, and make arrangements for payment when a settlement is reached or when judgment is delivered. Further he may be given power to compromise claims out of Court. Where possible he should endeavour to obtain firsthand knowledge of the cases he is required to settle by visiting the spot, questioning withnesses etc.

(d) In regard to the settlement of claims, stress must be laid on the need for avoiding unnecessary delay and in this connection Departments should arrange with their Financial ~~Advis~~ Advisers regarding the extent to which the officer referred to in (c) can be empowered to sanction amounts necessary to ~~set~~ settle cases quickly out of Court. The Indian Workman's Compensation Act should be used as a guide in calculating compensation for death or injury to ~~pre~~ persons whose status and earnings would normally bring them within the provisions of that Act.

/True Copy/

sd. . . .
Superintendent,

15

From
D.D.Sthe, Esq., I.C.S.,
Secretary, Central Road
Traffic Board, Chepauk,
M a d r a s.

To
The Secretary, to Government,
Home Department,
Fort St. George,
M a d r a s.

Letter No.11229/A.2/47 dated 4-8-1947

Sir,

Sub:- Motor vehicles - Accidents in which Government owned vehicles are involved - Payment of Compensation.
Ref:- Government Memo No.38198 B/47-1 Home Department dated 25th June, 1947.

With reference to para 2 of the Government Memo cited the Central Board submits a copy of report of the District Superintendent of Police, Kistna regarding the accident on 19-2-47 in which police lorry MDK 87 was involved. As there was no negligence on the part of the driver of the vehicle in this case no compensation is payable according to the instructions in Government Memo No.38198-B/47-2 Home dated 7th July, 1947.

sd. . . . . .
for Secretary
5-8-47

Copy of letter Rc.509/MVR/47 dated 19-7-1947 from the District Superintendent of Police, Kistna, Chilakalapudi to the Secretary Central Road Traffic Board, Chepauk, Madras.

Sub:- Motor Vehicles - Accident of Police lorry - 3rd party insurance compensation - Detailed report submission of.
Ref:- Your Memo No.11229/A.2/47 dated 2-7-1947.

On 19-2-1947 Police bus MDK 87 which is stationed at Bezwada for the use of the Police was returning from Gannavaram with the reserve party and when the bus approached Machavaram, near S.K.V.P. Hindu College a girl named Parasa Vajram aged 14 years daughter of Sikhamani suddenly crossed the road and was knocked down by the Police bus. The accident was reported by the driver P. Ramaswamy Armed Reserve Police constable 975 at Law and Order II Station, Bezwada after admitting the injured girl in the Government Hospital, Bezwada. A case was registered as Cr.No.61/47 of L & O II station and investigated into by the Circle Inspector of Police, Bezwada Town. During the investigation several eye withnesses were examined and they stated that there was no negligence on the part of the driver and so the case was treated as an accident.

2. On 24-2-1947 Rev. E.N. Spear, M.A. who is the Secretary and Treasurer of the C.M.S. Church submitted a petition on behalf of the girl for the 3rd party Insurance Compensation.

Under Section 94(2) of M.V.Act, published under Rule 12 of G.O.Ms.1539, Home dated 17-5-1946 Government vehicles are exempted from the 3rd party insurance, and hence the petitioner has no claim for compensation.

sd. . . . .
for Dt. Superintendent of Police
Kistna.

/True Copy/

Home Department.

Memo No.38198B/473dated 13-8-1947.

Sub: Motor vehicles - Insurance against third parly risks - Accident in which a Government owned vehicle was involved - Payment of Compensation

Ref: Correspondence relating with letter from the Secretary C.R.T.Board Madras, No.11229/A.2/47 dated 4th August 1947.

The Government agree that no compensation is payable in the case referred to in the letter cited.

sd. . . . .
Secretary to Government
12-8-1947

To the Secretary,
Central Road Traffic Board, Madras.

/True Copy/

Notes

N.F.

Home Department.

Motor Vehicles - Accidents in which Government owned vehicles are involved - Payment of Compensation - Procedure.

From the Secretary, C.R.T.Board, No.11229/A2/47,d/3-6-1947.

Please see the Central Road Traffic Board's letter in the C.F. With reference to para 3 on p 2 c.f. it is submitted that the Government of India are already having under consideration the question of laying down the procedure for the settlement of claims for compensation arising out of accidents in which Government owned motor vehicles are involved. Please see the memorandum and the draft instructions at (q) which the Government of India propose to place before the T.A.C. at its next meeting. They propose to commend the procedure outlined by them to be provincial Governments also for adoption - please see A and B on p.2 of (q) . It will, however, take some time for the Government of India to make their final suggestions after considering any recommendations that the T.A.C. may make in this behalf. Nevertheless it seems preferable to await their final suggestions before issuing any general instructions in the matter, as now proposed by the C.R.T.Board. A copy of the memorandum and draft instructions at (q) has been sent separately in file C.No.21955B/47 to the C.R.T.Board for remarks. The present letter has crossed it. In the circumstances stated above and also in view of the fact that cases of claims for compensation arising out of accidents in which Government owned vehicles are involved, are in their very nature, likely to be few and far between, it seems sufficient if the attention of the Board is invited to the memorandum and draft instructions of the Government of India and it be told that general instructions in the matter will be issued after the final suggestions of the Government of India have been received. A

2. As regards the specific case referred to by the Board in para 2 of its letter, the Board may perhaps be asked to obtain from the D.S.P. Kistna a detailed report on the question of the amount of compensation that may be paid in the light of the draft instructions received from India and forward it to Government for consideration.

3. Subject to orders a draft memorandum is submitted. Finance may see before issue.

* * * *

'X' may go. But as regards general instructions, perhaps we could ask D.S.P's (in case the vehicle belongs to police department) or D.M's , in other cases, to send up detailed reports in cunsultation with the local Government Pleaders for compensations. We would then have ~~ask in the~~ interiam procedure for dealing with such cases, till a policy is known. B

Yes: it also has to be reported how the accident occured. If the driver is in no way responsible for it, compensation would not generally be paid.

sd. . . . .
13-6-47

FINANCE.

The proposal, of Home at A and B on pp.1--2 above may be agreed to and the case returned to them

sd. . . . . .
19-6-47

Home (B) Department.

Please see Finance Department's note above. The draft memo to the C.R.T.Board may now issue. After issue, action will be taken regarding the issued of instructions relating to the interim

P.T.O.

interim procedure refered to at B above

sd. . . . . .
25-6-47

* * * *

(Issued as Memo No.38198B/47-1 Home dated 25-6-47)

With reference to B on PP.1--2 ante, a draft memo is submitted for approval. It seems unnecessary to consult the I. G. Of Police before asking the D.S.P. to report on cases in which police vehicle are involved. As regards the city of Madras, the Commissioner of Police may be asked to report on all cases. The draft provides accordingly. For orders to issue or circularion.

May issue.

sd. . . . . .
5-7-47

* * *

(Issued as Memo 38198B/47-2 Home dated 8-7-47)

From the Secretary C.R.T. Board No.11229/A.2/47 d/4-8-47

With reference to para 2 of the memo at p.3 c.f, the C.R.T Board has obtained and forwarded the report of the D.S.P Kistna on the specific case of claim for compensation refered to ~~it~~ by it in para 2 on pp- 1--2 c.f. At X on p.12 c.f. the D.S.P. reports that there was no negligence on the part of the driver and so the case was treated as an accident. In view of the instruction at R on p.6 c.f, the C.R.T.Board also has observed that no compensation is payable in ~~Kis~~ this case. For order, therefore, whether, Government will agree that no compensation is payable in this case and whether the Board may be informed accordingly with reference to M on p.2 ante.

2. A draft memo is submitted for approval. After issue the papers may be recorded for facility of ~~furthe~~ future reference.

sd. . . . . .
12-8-47

G.O.Ms.No.3291 Home dated 21-8-1947.

Motor vehicles - Insurance against third party risks - Accidents in which Government owned vehicles are involved - Settlement of claims for compensation - Instructions regarding procedure issued - Papers recorded.

/True Copy/

A. Thiagarajan 8-1-54

Office Assistant,
MADRAS RECORD OFFICE.

GK.

HSB 7.12